

Wendy Wiles, Administrator
Environmental Solutions Division
Department of Environmental Quality
Agency Headquarters
811 SW Sixth Avenue
Portland, OR 97204-5696

RE: Waiver Request of the 50%/50% Spending Requirement of 319(h) Funding

Dear Ms. Wiles:

The purpose of this letter is to respond to your September 20, 2016, request for a waiver to deviate from the Clean Water Act Section 319(h) National Program Guidance which requires states to use at least 50% of the Section 319(h) funds specifically for implementing watershed projects. The request, which is for FY 2015 and FY 2016, cites difficulties in meeting this requirement because in both years the State's 319 awards were penalized when NOAA and EPA determined the Oregon Coastal Non-point Pollution Control Program (CNPCP) was not approvable. You also indicated that these penalties were reduced from the portion of the awards targeted for non-point source implementation projects because the "non-project" implementation funds of the State's 319 awards were added to the Performance Partnership Agreement and used to support staff who are connected to and implement the State's Non-point Source Management Program Plan.

EPA fully appreciates the budgeting difficulties the Oregon Department of Environmental Quality (DEQ) has experienced in the last two 319(h) funding cycles because of the CNPCP decision. EPA also recognizes the importance of funding staff who implement the State's non-point source program for without them, the program would not get implemented. However, there are some points we must consider in the waiver process as we move forward.

In your waiver request you indicate that the penalties from the CNPCP decision were the cause of the State not being able to meet the "50/50" spending requirement in the 319(h) National Program Guidance. However, based on the figures in your letter, the "50/50" spending requirement would not have been met because the majority of the funds go into PPG and support staff.

Timing of the request

Likelihood that the State would not have been able to make the 50/50

Recognition that the State is doing lots of non-point source work and the basin coordinators are very active in working on nonpoint source issues

Lack of staff at headquarters – need a commitment to reviewing the states

We have to recognize that while the spending imbalance has been influenced by the CNPCP penalties, the pecwas not being achieved. Years prior to

Commitment to establishing milestones for timely delivery of Intended Use Document, Annual Report, Waiver or exemption process

Balanced approach.

If you have questions or concerns regarding this letter, please feel free to call me at (206) 553-1855 or you can contact Alan Henning of my staff at (541) 687-7360. Thank you for your continued efforts to improve water quality and protect the State's waters from non-point pollution.